

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

WILLIAM ROBERTS WILSON, JR., and
ROBERTS WILSON, JR., P.C.

PLAINTIFFS

V.

CIVIL ACTION NO. 3:09-CV-006-B-A

RICHARD F. SCRUGGS, RICHARD F.
SCRUGGS, P.A., SMBD, INC. f/k/a SCRUGGS,
MILLETTE, BOZEMAN AND DENT, P.A.,
SLF, INC. f/k/a THE SCRUGGS LAW
FIRM, P.A., EDWARD J. PETERS,
STEVEN A. PATTERSON, TIMOTHY BALDUCCI,
DAVID ZACHARY SCRUGGS, AND
JOHN DOES 1 - 10

DEFENDANTS

ORDER OF RECUSAL

The undersigned United States District Judge has been the presiding judge in the criminal proceedings, *U.S. v. Scruggs et al.*, No. 3:07CR192-B-A, and now has drawn by random draw the assignment of the above styled and numbered civil case involving four of the named defendants in the criminal case. No party herein has requested or suggested recusal in this case, and Title 28, Section 455, of the United States Code Annotated and the cases cited thereunder offer the court broad latitude in exercising its discretion in such matters and therefore do not absolutely require recusal in this case, for the reasons set forth below.

Although the undersigned has been acquainted with four of the defendants named herein because they were also defendants in the criminal case, the only personal knowledge he has of them that might form a basis of bias was from the criminal case. Title 28, U.S.C. § 455(a) and the cases pertinent thereto hold that “recusal cannot be based on opinion or bias developed during the course of judicial proceedings.” *U.S. v. Jordan*, 49 F.3d 152, 155 (5th Cir. 1995). This rule is generally known as the “extrajudicial source doctrine.” *Id.*

Since the present civil case was drawn by the undersigned judge and one or two procedural orders were entered in it, the situation has now developed that substantive pretrial motions have been filed in the civil case while several post-trial motions involving the same defendants have been filed (currently under seal) in the criminal case, *U.S. v. Scruggs et al.* This situation results in the same

judge having motions before him in two cases, one criminal and one civil, involving the same defendants and on issues that may overlap.

It is for the foregoing reasons that the undersigned judge hereby recuses himself from the above styled and numbered civil case. The Clerk of Court is directed to place this case back into the computerized draw for random assignment to another judge thereby.

SO ORDERED AND ADJUDGED this, the 28th day of August, 2009.

/s/ Neal Biggers

NEAL B. BIGGERS, JR.
SENIOR U.S. DISTRICT JUDGE